

Response

A. Introduction

Claims 1, 4-6, 13, and 15-17 were pending in the application prior to entry of the preceding amendments, and *claims 1, 4, 6, and 15-17* are pending now. Although the Examiner previously allowed these claims, he recently withdrew their allowance in favor of a new rejection. According to the Examiner, these claims are unpatentable under 35 U.S.C. § 103(a) as obvious over combined disclosures of U.S. Patent Nos. 6,758,490 to Hoeft, *et al.* and 7,048,301 to Walsh. Because Applicants believe the Examiner has failed to present a *prima facie* case of obviousness, they request that this latest rejection be withdrawn and that the pending claims again be allowed.

B. The Claims

Recited in independent claim 1 is a protective device for an occupant of a vehicle. The device comprises an inflatable cushion having first and second portions configured so that:

- the first portion is directly above the second portion when the vehicle is upright;
- the second portion comprises a material that decreases in length when inflated so as to create tension, the material being distributed substantially uniformly and continuously throughout the second portion; and
- inflation of the second portion commences before inflation of the first portion.

As detailed in the application, “devices of the present invention effectively ‘pull’ the corresponding curtains out of their covers rather than ‘push’ them out, as is done with existing curtains.” See Application at p. 3, ll. 9-11. Moreover:

When the braided tube is inflated, it decreases in length while its diameter increases. This action pulls the curtain out of the cover and tensions the lower edge, creating a taut, generally linear, semi-rigid structure helping reduce the risk of occupant ejection during vehicle rollover.

See id. at p. 4, ll. 1-4.

According to the Examiner, the Hoeft patent describes an inflatable cushion 2 [*sic* 10?] having a first portion [88?] and a second portion 48. See Office Action at p. 2. Inflation conduit 56 appears to lead directly to second portion 48, arguably causing the second portion to inflate before the first portion. Attachment tabs 54 initially connect the second portion to the roof rail of a vehicle, with the tabs detaching from the roof rail and becoming *free-hanging* when the inflatable cushion is deployed. See Hoeft, col. 5, ll. 3-14; Figs. 2-3. Indeed, the only tethering (66, 74) shown for the deployed cushion is near the roof rail, far removed from second portion 48. See id., Figs. 2-3.

The Examiner acknowledges that the Hoeft patent fails to disclose second portion 48 as comprising material that decreases in length when inflated so as to create tension. See Office Action at p. 3. Nor is this failure of the Hoeft patent surprising in any way, as its inflatable cushion is *not* designed to reduce risk of occupant ejection during vehicle rollover. Instead, the inflatable cushion is intended simply to provide side-collision protection for occupants, as are other conventional side airbags. *Consequently, no special tensioning of second portion 48 need occur.* This result is consistent with the remaining disclosure of the Hoeft, as second portion 48 is *not* tethered in any way and tabs 54 are *free-hanging*.

Stated differently, no basis exists for including length-decreasing material in second portion 48. Indeed, the lack of tethering of second portion 48 would destroy any value in including length-decreasing material therein, as no significant additional tension could be created in the (unanchored) second portion. *The Hoeft patent thus clearly teaches away from this aspect of Applicants' claim 1, rendering nonsensical any suggestion that the length-decreasing teachings of the Walsh patent could successfully be incorporated therein.* For at least this reason no *prima facie* basis exists for the Examiner's latest rejection of claims 1, 4, 6, and 15-17, and Applicants request that these claims be returned to their prior allowed status.

Petition for Extension of Time

Pursuant to 37 C.F.R. § 1.136(a), Applicants petition the Commissioner for all extensions of time needed to respond to the Office Action.

Fees

Attached is authorization to charge a credit card for \$120.00 for fees related to the Petition for Extension of Time. Applicants believe no other fee presently is due. However, if Applicants' belief is mistaken, the Commissioner is authorized to debit Deposit Account No. 11-0855 for any additional fee due as a consequence of Applicants' submission of this paper.


Conclusion

Applicants request that the Examiner again allow claims 1, 4, 6, and 15-17 and that patent containing these claims issue in due course.

Respectfully submitted,

OF COUNSEL:

Kilpatrick Stockton LLP
1100 Peachtree Street
Suite 2800
Atlanta, Georgia 30309
(404) 815-6528


Dean W. Russell
Reg. No. 33,452
Attorney for the Assignee